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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,069	12/27/2001	Donald D. LaNeve	W1200-00038	9444
8933	7590	07/15/2004	EXAMINER	
DUANE MORRIS, LLP			ENATSKY, AARON L	
IP DEPARTMENT			ART UNIT	
ONE LIBERTY PLACE			PAPER NUMBER	
PHILADELPHIA, PA 19103-7396			3713	

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/034,069

Applicant(s)

LANEVE, DONALD D.

Examiner

Aaron L Enatsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 1-9, 18-26 and 35-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-17, 27-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9, 18-26, and 35-37, drawn to a system and method for providing race information over a network, classified in class 463, subclass 42.
- II. Claims 10-17 and 27-34, drawn to a system and method for providing probable payouts for exotic wagers, classified in class 700, subclass 91.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group I has separate utility such as a network system for strictly providing race information on a GUI (graphical user interface). See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Joseph A. Powers on 7/8/04 a provisional election was made without traverse to prosecute the invention of Group II, claims 10-17 and 27-34. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-9, 18-26, and 35-37 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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***Information Disclosure Statement***

Examiner has only initialed the IDS papers, received 3/27/02, containing US Patent documents. Foreign and Non-Patent Literature IDS papers were not initialed due to the unavailability of the indicated references. A new copy will need to be forwarded to the Examiner for review.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-17 and 27-34 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US 6,099,409 to Brenner et al. ("Brenner"). Brenner teaches a system and method for interactive off-track wagering (Abstract). A user can interactively select a race and racetrack, while also viewing odds, pools, and payoff amounts (Abstract). Brenner also details that any various views for probable payout information on complex wagers such as exacta and trifecta can be provided to a user (13:30-14:21). Brenner provides that this methodology allows a user to have easy access to all types of wagering data (14:6-21). Brenner also clearly provides numerous displays that include probable payout information in table format for a first entrant in a first race and a second entrant in a second race (Fig. 12). Brenner also shows that the probably payout would be updated if a user choose a specific wager type (Fig. 19). Figures 1-50 in Brenner provide an accurate and clear picture of the race detail given to a user, the level of user

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interactivity with the race program, as well as the methods used to execute the remote race wagering system as claimed by Applicant.

***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2002/0068633 to Schlaifer teaches a network system providing probabilities for race wagers.

US 2003/0195038 to DeWeese et al. teaches an interactive wagering system distributed to televisions.

US 6,722,980 and US 2002/0142816 to Stronach teaches an interactive race wagering system.

US 2003/0144054 to DeWeese et al. teaching interactive wagering systems using multiple television feeds.

US 2003/0157976 to Simon et al. teaches parimutuel betting one live sporting events.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8-6 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALE



JOHN M. HOTALING, II  
PRIMARY EXAMINER